

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 201906851	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 07/22/2019 6:55 AM	Location of Incident: Marcy Avenue and Hart Street; Nostrand Avenue and Willoughby Avenue	Precinct: 79	18 Mo. SOL 1/22/2021	EO SOL 9/8/2021	
Date/Time CV Reported Wed, 07/24/2019 12:06 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/05/2019 11:10 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Samuel Sharman	03717	945000	079 PCT
2. POF Leticia Dumasgalindo	02316	964498	079 PCT
3. POM Christophe Marotta	03139	953050	079 PCT
4. SGT Derrick Garcia	04112	922393	079 PCT
5. POM Patrick Onody	24659	963189	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Herman Kirton	06900	901780	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Derrick Garcia	Abuse: At Marcy Avenue and Hart Street in Brooklyn, Sergeant Derrick Garcia stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POF Leticia Dumasgalindo	Abuse: At Marcy Avenue and Hart Street in Brooklyn, Police Officer Leticia Dumasgalindo stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Samuel Sharman	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman used physical force against § 87(2)(b)	
D.POM Patrick Onody	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody used physical force against § 87(2)(b)	
E.POM Christophe Marotta	Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta spoke discourteously to § 87(2)(b)	
F.POM Christophe Marotta	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta used physical force against § 87(2)(b)	
G.POM Christophe Marotta	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christophe Marotta used physical force against § 87(2)(b)	
H.POM Samuel Sharman	Abuse: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman threatened § 87(2)(b) with the use of force.	

Officer(s)	Allegation	Investigator Recommendation
I.POM Samuel Sharman	Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman spoke discourteously to § 87(2)(b)	
J.POM Christophe Marotta	Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta spoke discourteously to § 87(2)(b)	
K.POM Christophe Marotta	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta tightly handcuffed § 87(2)(b)	
L.POM Samuel Sharman	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman used physical force against § 87(2)(b)	
M.POM Christophe Marotta	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta used physical force against § 87(2)(b)	
N.POM Patrick Onody	Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody spoke discourteously to § 87(2)(b)	
O.POM Patrick Onody	Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody used physical force against § 87(2)(b)	
	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	
§ 87(2)(b)	§ 87(2)(g), § 87(4-b)	

### Case Summary

On July 24, 2019, Lieutenant Daniel Gallagher of the NYPD Legal Bureau contacted IAB to report this complaint, after he was contacted by NYPD Corporation Counsel, which reviewed body-worn camera (BWC) footage capturing use of force during § 87(2)(b)'s arrest. The complaint was received at the CCRB on August 5, 2019.

On July 22, 2019, at approximately 6:55 a.m., § 87(2)(b) old § 87(2)(b) drove a Jeep Grand Cherokee in the vicinity of Marcy Avenue and Hart Street in Brooklyn. Sergeant Derrick Garcia and Police Officer Leticia Dumas-Galindo, both of the 79<sup>th</sup> Precinct, attempted to conduct a vehicle stop, but § 87(2)(b) exited the car and fled on foot (**Allegations A and B: Abuse of Authority, § 87(2)(g)**). PO Dumas-Galindo requested a 10-85 (call for assistance) due to § 87(2)(b)'s flight and Police Officer Samuel Sharman, Police Officer Patrick Onody, Police Officer Christopher Marotta, and Police Officer Herman Kirkton, all of the 79<sup>th</sup> Precinct, responded. At Nostrand Avenue and Willoughby Avenue in Brooklyn, PO Sharman and PO Onody allegedly used a forcible takedown against § 87(2)(b) (**Allegations C and D: Force, § 87(2)(g)**). PO Marotta called § 87(2)(b) a “dumb fuck” (**Allegation E: Discourtesy, § 87(2)(g)**). PO Marotta then stepped on § 87(2)(b)'s right foot while § 87(2)(b) was on the ground (**Allegation F: Force, § 87(2)(g)**) and also stepped on § 87(2)(b)'s left foot (**Allegation G: Force, § 87(2)(g)**). PO Sharman told § 87(2)(b) “If you lie to me, I’m going to fuck you up” (**Allegation H: Abuse of Authority, § 87(2)(g)** and **Allegation I: Discourtesy, § 87(2)(g)**). PO Marotta told § 87(2)(b) “Watch your fucking mouth” (**Allegation J: Discourtesy, § 87(2)(g)**). After PO Sharman and PO Onody rear-cuffed § 87(2)(b), PO Marotta tightened § 87(2)(b)'s handcuffs and pulled his rear-cuffed arms in front of his body (**Allegations K: Force, § 87(2)(g)**). PO Marotta and PO Sharman pushed § 87(2)(b) into the backseat of a police vehicle (**Allegations L and M: Force, § 87(2)(g)**). PO Onody allegedly said to § 87(2)(b) “Shut the fuck up, asshole” (**Allegation N: Discourtesy, § 87(2)(g)**) and allegedly kneed him in the genitals (**Allegation O: Force, § 87(2)(g)**).  
§ 87(2)(g), § 87(4-b)

§ 87(2)(b), § 87(2)(a) 160.50

Body-worn camera video footage from PO Dumas-Galindo, Sgt. Garcia, and PO Kirkton was received and will be discussed in further detail below.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: At Marcy Avenue and Hart Street in Brooklyn, Sergeant Derrick Garcia stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: At Marcy Avenue and Hart Street in Brooklyn, Police Officer Leticia Dumas-Galindo stopped the vehicle in which § 87(2)(b) was an occupant.**

The investigation established the following facts:

On July 22, 2019, at approximately 6:55 a.m., § 87(2)(b) who was § 87(2)(b) old and thus not licensed to drive, drove a red Jeep Grand Cherokee in the vicinity of Marcy Avenue and Hart Street in Brooklyn. Sgt. Garcia and PO Dumas-Galindo attempted to affect a vehicle stop, as they allegedly observed § 87(2)(b) commit a traffic infraction. Upon seeing the officers’ vehicle, § 87(2)(b) exited the Jeep and fled on foot down Marcy Avenue. PO Dumas-Galindo requested additional units over the radio and provided a description of § 87(2)(b)'s person and clothing while engaging in a foot pursuit. In the vicinity of Nostrand Avenue and Willoughby Avenue in Brooklyn, PO Sharman, PO Onody, and PO Marotta affected § 87(2)(b)'s arrest. PO Sharman and PO Onody transported § 87(2)(b) back to the 79<sup>th</sup> Precinct stationhouse. PO

Dumas-Galindo determined the true owner of the vehicle at the stationhouse after the owner contacted the precinct to report his Jeep Grand Cherokee as missing.

It is undisputed that after PO Dumas-Galindo and Sgt. Garcia attempted to stop § 87(2)(b) in the Jeep on Hart Street, § 87(2)(b) fled on foot on Hart Street toward Marcy Avenue.

§ 87(2)(b) (BR 01) testified that he was driving his friend's Jeep on Marcy Avenue, with permission from his friend, though he does not have a license to drive. § 87(2)(b) refused to disclose his friend's name. After driving the Jeep for approximately two to three minutes, he made a left onto Hart Street. § 87(2)(b) did not recall committing any traffic infractions while driving. A marked police vehicle then pulled up next to the passenger's side of the Jeep. PO Dumas-Galindo and Sgt. Garcia, who were inside the car, did not have a vehicle's lights or sirens activated and did not say anything to § 87(2)(b) then exited the Jeep and fled on foot because he did not have a license to operate the vehicle.

PO Dumas-Galindo and Sgt. Garcia (BR 02-03) provided consistent testimony that they were on routine patrol on Marcy Avenue, a one-way, two-lane street, in the vicinity of the cross streets of Kosciuszko Street and Dekalb Avenue in Brooklyn when they observed a Jeep, operated by § 87(2)(b) make a right at a red light. PO Dumas-Galindo specified that § 87(2)(b) was traveling westbound on Dekalb Avenue and she knew he made a right on red because she had a green light on Marcy Avenue. Upon arriving at the corner of Marcy Avenue and Hart Street, PO Dumas-Galindo and Sgt. Garcia were stopped at a red light in the left lane. § 87(2)(b) made a left turn onto Hart Street from the right lane of Marcy Avenue while the light was still red. PO Dumas-Galindo informed Sgt. Garcia that she wanted to affect a vehicle stop to ensure the driver was okay. After turning onto Hart Street, which is a one-way, one-lane street, PO Dumas-Galindo turned on the police vehicle's turret lights. § 87(2)(b) appeared as if he was going to pull over, as he moved to left side of the street. § 87(2)(b) then struck a parallel parked vehicle, exited the Jeep, and fled on foot.

Although § 87(2)(b) was ultimately arrested, because he was not charged with a traffic infraction, an allegation of a vehicle stop is pled. PO Dumas-Galindo testified that after § 87(2)(b)'s arrest, she conferred with the juvenile desk and § 87(2)(b)'s charges were provided to her by the individuals working the juvenile desk. As no one at the Juvenile Desk instructed PO Dumas-Galindo to charge § 87(2)(b) with a Vehicle and Traffic Law (VTL) violation, she thus did not list any VTL charges on § 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(g)

**Allegation (C) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman used physical force against § 87(2)(b)**

**Allegation (D) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody used physical force against § 87(2)(b)**

It is undisputed that after § 87(2)(b) fled on foot from the Jeep, PO Dumas-Galindo and Sgt. Garcia briefly pursued § 87(2)(b) in their vehicle before exiting and chasing § 87(2)(b) on foot on Marcy Avenue. Near the corner of Nostrand Avenue and Willoughby Avenue, PO Sharman and PO Onody, in response to PO Dumas-Galindo's radio run requesting additional units, affected § 87(2)(b)'s arrest.

§ 87(2)(b) testified that when he arrived at the corner of Hart Street and Willoughby Avenue, he stopped running because he was tired and leaned on a parallel parked vehicle. Several police vehicles arrived at the intersection. Officers, who § 87(2)(b) could not describe, grabbed him on all different parts of his body, and took him to the ground. § 87(2)(b) landed on his stomach. § 87(2)(b) could not further describe how the officers grabbed him.

PO Dumas-Galindo testified that as she pursued § 87(2)(b) on foot, she requested additional units and provided a description of § 87(2)(b) over the radio: black male wearing all black and white sneakers, as well as his direction of flight. By the time PO Dumas-Galindo arrived at the intersection of Nostrand Avenue and Willoughby Avenue, PO Sharman, PO Onody, and PO Marotta, along with other additional units, were on scene and § 87(2)(b) was already on the ground and in handcuffs. PO Dumas-Galindo did not see officers use a forcible takedown against § 87(2)(b) or otherwise see how § 87(2)(b) got on the ground. Sgt. Garcia similarly testified that by the time he arrived at the intersection, § 87(2)(b) was already in handcuffs.

PO Sharman and PO Onody (BR 05-06) provided consistent testimony that they responded to PO Dumas-Galindo's radio run requesting additional units and saw § 87(2)(b) who matched the description PO Dumas-Galindo provided, running westbound on Willoughby Avenue. PO Onody, who was driving the vehicle, stopped the vehicle and both he and PO Sharman exited the vehicle. The officers ordered § 87(2)(b) to get on the ground and he complied. PO Sharman and PO Onody denied using any physical force against § 87(2)(b) to get him on the ground.

Although § 87(2)(b) could not describe the officers who allegedly forcibly took him to the ground, as PO Sharman and PO Onody testified that they located § 87(2)(b) pursuant to the details PO Dumas-Galindo provided over the radio, PO Sharman and PO Onody were identified as the subject officers of Allegations C and D.

As will be discussed in further detail below, both PO Sharman and PO Onody failed to activate their body-worn cameras during this incident. PO Dumas-Galindo and Sgt. Garcia activated their body-worn cameras, but they arrived at the scene of § 87(2)(b)'s arrest after the forcible takedown allegedly took place. Thus, there is no video footage of the alleged takedown.

§ 87(2)(g)

**Allegation (E) Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta spoke discourteously to § 87(2)(b)**

§ 87(2)(b) alleged that an officer said, "Shut the fuck up, asshole," once he was inside the police vehicle for transport, which will be further analyzed below. § 87(2)(b) did not further allege that officers spoke discourteously to him during the course of his arrest.

In PO Dumas-Galindo's BWC (BR 07-08), at the 00:37 mark, just before PO Marotta enters the left side of the frame a voice says, "Dumb fuck. You run like this in the humidity? You're so stupid" (<<00:31-00:36>>).

According to PO Marotta (BR 09), when he arrived on scene, § 87(2)(b) was face-down on the ground and PO Sharman and PO Onody were in the process of handcuffing him. As PO Marotta approached, he made a "sarcastic comment" to § 87(2)(b) saying, "What are you fucking stupid running like this in the middle of July?" PO Marotta made the comment because § 87(2)(b) had ran from the police in July when it was hot outside. PO Marotta reviewed PO Dumas-Galindo's body-worn camera footage and identified his voice and the voice saying, "Dumb fuck."

The New York City Police Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. NYPD Patrol Guide Procedure 200-02 (BR 18).

While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143 (BR 10).

While PO Marotta had been involved the pursuit of a fleeing § 87(2)(b) because § 87(2)(b) was already face-down on the ground and PO Sharman and PO Onody were in the

process of handcuffing him, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (F) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta used physical force against § 87(2)(b)**

**Allegation (G) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta used physical force against § 87(2)(b)**

§ 87(2)(b) testified that after he landed on his stomach on the ground, an officer, whom he could not describe, put one of his or her feet on § 87(2)(b)'s right foot and leg. § 87(2)(b) did not know if the officer applied his or her bodyweight to his foot. § 87(2)(b) alleged that he sustained a cut to the front of his leg as a result of the officer putting his or her foot on his foot and leg.

In PO Dumas-Galindo's BWC footage, just before PO Marotta enters the frame from the left side of the screen, the sound of handcuffs tightening is heard. When PO Marotta enters the frame, he steps on § 87(2)(b)'s right leg, near his ankle, which is positioned so that the toe of his sneaker is resting on the ground. § 87(2)(b) is still face-down on the ground with PO Sharman and PO Onody on either side of him. As a result of PO Marotta stepping on § 87(2)(b)'s ankle, § 87(2)(b)'s foot bends toward § 87(2)(b)'s right (left on the screen). PO Marotta then continues to walk toward § 87(2)(b)'s left side (<<00:37 – 00:40>>). As PO Sharman and PO Onody continue to handcuff § 87(2)(b), PO Marotta stands near § 87(2)(b)'s legs. PO Sharman instructs § 87(2)(b) to "flip over." PO Marotta then moves to his right and looks down toward the ground. § 87(2)(b) is screaming, "Ah!" PO Marotta says, "Stop moving," but § 87(2)(b) does not appear to be moving. When PO Onody stands up, PO Marotta's left leg is bent, with his foot resting on § 87(2)(b)'s left ankle, so that § 87(2)(b)'s foot is pointed to his left. PO Marotta keeps his left foot on § 87(2)(b)'s ankle for approximately 15 seconds (<<00:52 – 01:09>>).

PO Marotta's handwritten TRI (BR 11) notes that he "accidentally stepped on subject's foot while on ground" and that the force was unintentional. The TRI does not indicate that PO Marotta used any other kind of force. The TRI also notes that § 87(2)(b) did not use any force against officers.

PO Marotta testified that § 87(2)(b) raised his left foot in an attempt to heel strike PO Onody. PO Marotta prevented § 87(2)(b) from heel striking PO Onody by "securing" § 87(2)(b)'s left foot and applying slight pressure to it. PO Marotta estimated that he did so for approximately 10 seconds. PO Marotta reviewed his TRI during his interview and confirmed he accidentally stepped on § 87(2)(b)'s right foot as he attempted to step over him when he first arrived on scene.

PO Onody and PO Sharman provided consistent testimony that they could feel § 87(2)(b) moving his legs, but could not specify exactly how he was moving his legs because their backs were toward § 87(2)(b)'s legs. PO Sharman added, however, that § 87(2)(b) did "kick his heel up" at some point, but he did not see if § 87(2)(b) tried to heel strike him or PO Onody. PO Onody denied that § 87(2)(b)'s legs ever made physical contact with him. Both PO Sharman and PO Onody testified that PO Marotta stood behind them, but neither could specify how, if at all, PO Marotta attempted to secure § 87(2)(b)'s legs.

As mentioned in Allegations C and D, both PO Dumas-Galindo and Sgt. Garcia testified that upon their arrival, § 87(2)(b) was already in handcuffs. PO Dumas-Galindo testified that § 87(2)(b) was moving around, wiggling, and trying to get out of the officers' hold. The officers held § 87(2)(b)'s ankles down, but PO Dumas-Galindo could not specify how they



going to fuck you up.” PO Sharman made this comment because he wanted to ensure § 87(2)(b) understood that he needed a truthful answer from him regarding if he had anything in his pockets that could cut him. In PO Sharman’s experience, when people run from the police, they usually have something in their pockets, such as a knife or syringe, and PO Sharman has cut himself in the past when people have lied about what was in their pockets. PO Sharman denied making the statement for any other reason.

PO Marotta also reviewed PO Dumas-Galindo’s BWC and confirmed that he made the comment, “Watch your fucking mouth,” but he could not provide a reason for which he made the comment.

Force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. NYPD Patrol Guide Procedure 221-01.

The New York City Police Department is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. NYPD Patrol Guide Procedure 200-02.

While police officers are held to a high standard of conduct, traditional rules of etiquette cannot be applied to stressful enforcement situations. Disciplinary Case 2013-10143.

At the time that PO Sharman told § 87(2)(b) “If you lie to me, I’m going to fuck you up,” § 87(2)(b) was already in handcuffs and still was face-down on the ground, § 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(b), § 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation (K) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta tightly handcuffed § 87(2)(b)**

In PO Dumas-Galindo’s BWC, after PO Sharman and PO Onody finish searching § 87(2)(b) pursuant to his arrest, § 87(2)(b) is toward the bottom left of the screen rear-cuffed. PO Onody holds § 87(2)(b)’s right arm around his bicep area and PO Marotta holds § 87(2)(b)’s right hand and wrist with both of his hands. § 87(2)(b) appears to be on his left side. PO Marotta pulls § 87(2)(b)’s arm around the wrist area, so that § 87(2)(b)’s back is on the ground and his handcuffed arms are in front of his body. PO Onody lets go of § 87(2)(b)’s bicep. § 87(2)(b) screams, “Ah! Record!” and bends his knee upward. The sound of handcuffs tightening is audible. PO Marotta says, “No one cares who you are,” twice, while holding § 87(2)(b)’s right wrist in front of his body. PO Marotta then pushes § 87(2)(b)’s knee to the left. § 87(2)(b) continues to yell, “Record!” Officers then say, “We’re good. We got him” (<<01:09 – 01:16>>).

§ 87(2)(b) did not allege that an officer retightened his handcuffs at this point, or pulled his arms in front of his body after he was rear-cuffed.

PO Marotta testified that when § 87(2)(b) made the comment to PO Sharman, “Do you know who the fuck I am?” as mentioned above, he interpreted the comment as a threat, as the 79<sup>th</sup> Precinct has “a lot of gang violence” and other perpetrators have made comments akin to § 87(2)(b)’s “bragging” about having “street credit with a gang.” PO Marotta did not know if § 87(2)(b) was a member of a gang. Once § 87(2)(b) was handcuffed, PO Marotta saw that there was space between one of § 87(2)(b)’s wrists and the handcuffs, though he did not recall which wrist. PO Marotta was concerned that § 87(2)(b) could slip his hand out of the handcuff



and “cause physical damage” to an officer, due to the previous threat he made against PO Sharman. § 87(2)(b) was also squirming on the ground and moving his hands toward his waist area, but PO Marotta could not describe how § 87(2)(b) was squirming. PO Marotta knelt down and tightened § 87(2)(b)'s handcuff. PO Marotta also reviewed PO Dumas-Galindo's BWC and testified that he pulled § 87(2)(b)'s handcuffed arms away from his body because he was afraid § 87(2)(b) was “going for something in his waist.” PO Marotta confirmed that this was the point at which he was trying to tighten § 87(2)(b)'s handcuffs.

PO Sharman and PO Onody both testified that they did not notice if one of § 87(2)(b)'s handcuffs were loose enough for § 87(2)(b)'s hand to slip out. PO Dumas-Galindo testified that no officer informed her that § 87(2)(b)'s handcuffs were too loose.

Force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. Members of service shall not use any level of force on handcuffed or otherwise restrained subjects unless necessary to prevent injury, escape or to overcome active physical resistance or assault. NYPD Patrol Guide Procedure 221-01.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

**Allegation (L) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Christopher Marotta used physical force against § 87(2)(b)**  
**Allegation (M) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Samuel Sharman used physical force against § 87(2)(b)**

In PO Dumas-Galindo's BWC, after PO Marotta tightens § 87(2)(b)'s handcuffs, officers say, “We're good,” and, “We got him.” PO Marotta and PO Sharman lift § 87(2)(b) off the ground by his arms. § 87(2)(b) continues to yell, “Ah!” PO Marotta and PO Sharman push § 87(2)(b) into the back of the vehicle, the door of which is open, so that § 87(2)(b) lands on the backseat on his side. PO Marotta then closes the door (<<01:18 – 01:30>>).

In PO Kirkton's BWC (BR 13, 08), PO Kirkton approaches the scene as PO Marotta tightens § 87(2)(b)'s handcuffs. Additional officers approach the area and PO Onody says, “We got him.” PO Sharman and PO Marotta lift § 87(2)(b) off the ground and push § 87(2)(b) on his back and left side area into the back seat of the car (<<00:37 – 00:53>>).

§ 87(2)(b) did not allege that officers pushed him into the back of the police vehicle, but did testify that PO Sharman and PO Onody positioned him in the back seat so that he was lying down on his right side.

PO Marotta, PO Sharman, and PO Onody provided consistent testimony that upon picking § 87(2)(b) up off the ground, § 87(2)(b) shifted his weight back toward the officers. PO Marotta and PO Sharman testified that as a result, the officers had to forcefully push § 87(2)(b) into the police vehicle. PO Onody did not see how PO Marotta and PO Sharman ultimately got § 87(2)(b)

§ 87(2)(b) in the police vehicle, but denied seeing PO Marotta and PO Sharman use any physical force in order to do so. Similarly, PO Dumas-Galindo denied seeing PO Marotta and PO Sharman push § 87(2)(b) into the police vehicle and Sgt. Garcia testified that he was not on scene at the time that § 87(2)(b) was placed into the police vehicle.

PO Sharman prepared a TRI (BR 19) for § 87(2)(b) but the TRI only indicated that PO Sharman used force to “restrain subject on ground who was resisting to secure handcuffs on subject.” PO Sharman’s TRI does not indicate that any other force was used.

Force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or prevent escape from custody. In determining whether the use of force is reasonable, members of service should consider: the nature and severity of the crime/circumstances; immediacy of the perceived threat; number of subjects in comparison to the number of MOS; and the size, age, and condition of the subject in comparison to the MOS, among other factors. NYPD Patrol Guide Procedure 221-01.

§ 87(2)(b), § 87(2)(g), § 87(2)(a) 160.50

**Allegation (N) Discourtesy: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody spoke discourteously to § 87(2)(b)**

**Allegation (O) Force: At Nostrand Avenue and Willoughby Avenue in Brooklyn, Police Officer Patrick Onody used physical force against § 87(2)(b)**

§ 87(2)(b) testified that after officers placed him in the back of the vehicle on his right side, he asked the officers, “What did I do?” to which PO Onody responded, “Shut the fuck up, asshole,” and allegedly knelt § 87(2)(b) in the genitals. § 87(2)(b) alleged that he suffered pain to genital area for approximately two weeks after the incident.

PO Onody denied telling § 87(2)(b) “Shut the fuck up, asshole” and denied kneeling § 87(2)(b) in the genitals. PO Onody further testified that he drove § 87(2)(b) back to the stationhouse and PO Sharman was in the passenger’s seat. No officers sat in the back with § 87(2)(b) en route to the stationhouse.

PO Sharman and PO Marotta also denied hearing any officer say, “Shut the fuck up, asshole” or seeing an officer knee § 87(2)(b) in the genitals.

In both PO Dumas-Galindo’s BWC and PO Kirkton’s BWC, PO Dumas-Galindo and PO Kirkton walk away from the police vehicle after § 87(2)(b) is placed inside. Thus, the alleged profanity and knee strike is not captured on any video footage.

§ 87(2)(g)

**Allegation (P)** § 87(2)(b) .

[REDACTED]

**Allegation (Q)** § 87(2)(b) .

[REDACTED]

**Allegation (R)** § 87(2)(b) .

[REDACTED]

§ 87(2)(g), § 87(4-b)

[REDACTED]

**Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(b) has been a party (BR 15).
- Sgt. Garcia has been a member of service for 22 years and has been named a subject in two prior complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Dumas-Galindo has been a member of service for two years and this is the first complaint to which she has been a subject.
- PO Sharman has been a member of service for 13 years and has been named a subject in three prior cases and six allegations, none of which were substantiated. § 87(2)(g)
- PO Onody has been a member of service for three years and this is the first complaint to which he has been a subject.
- PO Marotta has been a member of service for eight years and has been named a subject in one prior complaint and one allegation, which was not substantiated. § 87(2)(g)

**Mediation, Civil and Criminal Histories**

- This case was not eligible for mediation.
- As of March 4, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (BR 16).
- § 87(2)(b), § 87(2)(a) 160.50

---

Squad No.: 14

Investigator: Casey McCann Inv. Casey McCann 11/20/2020  
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel 11/20/2020  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date